



EAST DEVON DISTRICT COUNCIL

## Statement of Licensing Policy

### GAMBLING ACT 2005

For the period 31 January 2025 to 31 January 2028

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## **Part A**

### **1 The Licensing Objectives**

- 1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The relevant licensing objectives are:
- ☐ preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
  - ☐ ensuring that gambling is conducted in a fair and open way, and
  - ☐ protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 This Licensing Authority particularly notes the Gambling Commission’s Guidance (5.34) to local authorities that:
- “In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met. Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority’s decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).”
- 1.3 This licensing authority is aware that, in making decisions about premises licenses and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:
- ☐ in accordance with any relevant code of practice issued by the Gambling Commission
  - ☐ in accordance with any relevant guidance issued by the Gambling Commission
  - ☐ reasonably consistent with the licensing objectives and
  - ☐ in accordance with the authority’s statement of licensing policy

### **2 Introduction**

- 2.1 The Gambling Act 2005 (the “Act”) requires this Licensing Authority to draft, consult and publish a Statement of Licensing Policy in relation to its responsibilities under the Act. Once published, this Policy Statement, called the Statement of Gambling Policy will be kept under constant review and, in any case, will be re-published after every three years. Before any revision of the Statement of Gambling Policy is published this Authority will carry out a full consultation exercise on the relevant sections. This version of the Statement of Gambling Policy has been revised following the fourth 3 year review and is for the period 2025 – 2028.

- 2.2 This Statement of Principles (Licensing Policy) is written to conform to the provisions of the Gambling Act 2005 and regulations and Guidance issued under s.25 of the Act by the Gambling Commission. It outlines the way the licensing Authority will deal with applications for a range of premises licences, permits and enforcement of the Act.
- 2.3 Section 25 of the Gambling Act 'Guidance to local authorities' states that the Commission shall from time to time issue guidance as to:
- (a) The manner in which local authorities are to exercise their functions under this Act, and
  - (b) In particular, the principles to be applied by local authorities in exercising functions under this Act."
- 2.4 The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions but does not seek to impose a 'one size fits all' model across all licensing authorities. The commission recognises that every licensing authority is different and will have different views about how it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation'. The Gambling Act 2005 can be accessed on this link:  
<http://www.legislation.gov.uk/ukpga/2005/19/contents>
- 2.5 Between 2024 and 2025 numerous widespread public consultations were launched on the future of gambling regulation. The Gambling Commission advised in April 2024 that 'Given the ongoing consultations regarding the Gambling Act it is very unlikely that we will be able to amend the Guidance to Licensing Authorities document in sufficient time for you to incorporate changes within your own Statement'. The Gambling Commission therefore recommended that statements of gambling policy be refreshed in line with the requirements of the Act so as to be enforceable from January 2025, but thereafter be further revised to reflect forthcoming changes to the Guidance to Local Authorities. The changes outlined in this document therefore reflect this proposed approach.
- 2.5 **The Statement takes effect on 31 January 2025.**

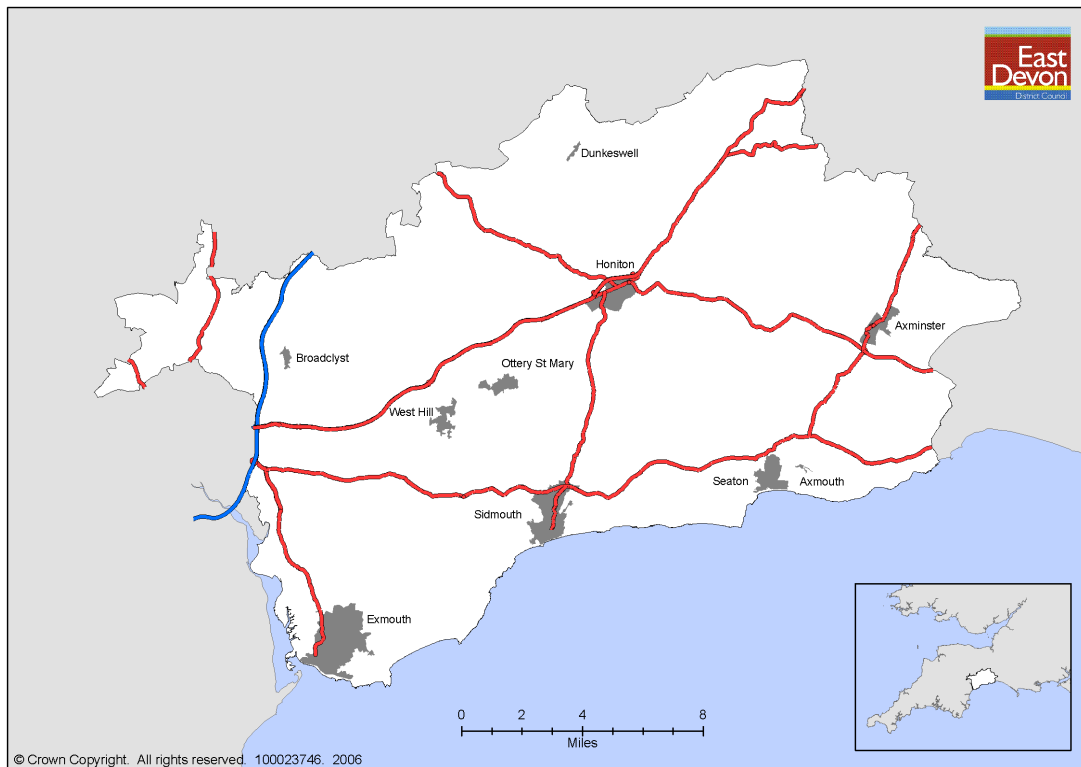
### **3 The Geographical Profile of East Devon**

- 3.1 East Devon is one of eight Devon districts and, in population terms, it is the largest in the County. The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of 175 per square km (the England and Wales average is 427). Of our 30 wards 21 of the have a population density below the England average. Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.
- 3.2 The District is fully parished with 63 Town and Parish Councils. Comprising of 30 wards, 21 have a population density below the England average with a mix of market and costal town areas with much higher population densities including towns such as Exmouth, Seaton and Honiton. The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population 48,613), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets. Cranbrook is the fastest-growing town in the South West with a young population with four times the England average of 0-4 year olds and a high proportion in the 25-39 age group. It is estimated that Cranbrook will house up to 28,000 residents by 2031 with the community infrastructure expanding since the first building works began in 2011. As one of the ten NHS Healthy New Towns, the programme is helping to create an environment that promotes healthy lifestyles using innovative approaches to create a healthy, vibrant, attractive and sustainable town. The population of East Devon has an older age profile with the average age of its residents being 50.7 years (national average is 40.1 years). East Devon has a highest age profile of all of the districts in Devon with the largest percentage of those aged 65+ at 30.06%, this equates to 42,758 people. The overall population is expected to increase by 14,300 people between 2017 and 2027, a rise of 10%.
- 3.3 The natural environment also makes East Devon a popular place to visit with tourism bringing significant employment and business opportunities. The population increases during summer periods when larger holiday parks in coastal towns see full capacity taken up by holidaymakers. The district has the second highest amount of holiday homes of the Devon districts. The tourist economy brings with it a number of gambling activities, for example Adult Gaming Centres (4) and Unlicensed Family Entertainment Centre Permits (11) requiring a permit rather than a premises licence.
- 3.4 The towns of Exmouth, Sidmouth, Seaton and Honiton have a number of betting shops, for which there are 7 across the district. East Devon currently has 636 licensed premises and clubs under the Licensing Act 2003, of which 114 have notified the licensing authority of having gaming machines. Additionally there are 11 Club Machine Permits across the district (figures correct at June 2024).
- 3.5 Predominantly, residents are from a white British background, with just 1.59 per cent of the district's population coming from an ethnic background. The migration of population into East Devon from other parts of the UK show that there were 2620 more people moving into the area than out. The largest age group moving in to the district was the 25-44 age group and the largest group moving out being the 16-24 age group.
- 3.6 Whilst not a requirement, in line with developing a more local focus for this statement, it is the desire of the Council to develop a Local Area Profile. The creation of such a profile will entail a process of gathering and presenting information about the East Devon area and any particular areas of concern within the locality.

## Data Sources

1 2019 Knowing East Devon report EDDC

\*Figures correct at the time of publication



## 4 Review of Statement of Principles

- 4.1 Licensing authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published. The policy statement forms the licensing authority’s mandate for managing local gambling provision and sets out how the licensing authority views the local risk environment and therefore its expectations in relation to operators with premises in the locality.
- 4.2 The Gambling Act requires that the following parties be consulted by Licensing Authorities:
- ☐ The Chief Officer of Police;
  - ☐ One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
  - ☐ One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 4.3 Before adopting this policy statement the Licensing Authority therefore made the draft policy available to the following for comment:
- ☒ All responsible authorities
  - ☒ Gambling premises licence and permit holders
  - ☒ British Beer & Pub Association
  - ☒ Chambers of Commerce within East Devon area
  - ☐ Citizen’s Advice Bureau

- ☐ Environmental Health Authority for the district
- ☐ Devon and Cornwall Police
- ☐ Devon County Council Children and Young Peoples Services
- ☐ Devon and Somerset Fire and Rescue Service
- ☐ East and Mid Devon Community Safety Partnership
- ☐ Planning Authority for the district
- ☐ Gamblers Anonymous
- ☐ Gambling Commission
- ☐ Gamcare
- ☐ HM Commissioners of Custom and Excise
- ☒ ~~Local businesses and their representatives~~
- ☒ ~~Local residents and their representatives~~
- ☒ ~~Mencap~~
- ☒ ~~NSPCC~~
- ☒ ~~Primary Care Trust~~
- ☐ Representatives & Association of British Bookmakers
- ☒ ~~Town and Parish Councils within East Devon~~
- ☒ ~~Voluntary & Community organisations working with children & young people~~

- 4.4 Proper weight has been given to the views of all those who have made comment on the draft Statement of Principles. Comments on the proposed draft policy were invited between 22 July 2024 and 14 October 2024 and we followed the Cabinet Office guidance on public consultations
- 4.5 The Statement of Principles was approved at a meeting of the Full Council on 13 November 2024 and is published on the Council's website. Copies are available for viewing at the offices of East Devon District Council, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton, EX14 1EJ
- 4.6 Should you have comments regarding this Statement of Licensing Principles please write to the above address or email [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)
- 4.7 It should be noted that this statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

## 5 Declaration

- 5.1 In producing the Licensing Policy Statement, the licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the current Guidance to Licensing Authorities issued by the Gambling Commission (GLA) and any relevant responses from those consulted on the policy statement.
- 5.2 Where updates are necessary due to changes in national legislation, statutory guidance or regarding contact details and web links, the council reserves right to make those amendments to the policy without consultation to ensure those changes are reflected.
- 5.3 This licensing authority will have due regard to the Human Rights Act 1998 and in particular:
- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest

- Article 6 – right to a fair hearing
- Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life
- Article 10 – right to freedom of expression.

## **6 The Overriding Principle**

- 6.1 In exercising its functions under the Act, this Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks fit:
- ☐ in accordance with the relevant codes of practice issued by the Gambling Commission including the Licence Conditions and Codes of Practice LCCP s;
  - ☐ in accordance with any relevant guidance issued by the Gambling Commission;
  - ☐ as is reasonably consistent with the licensing objectives; and
  - ☐ in accordance with the authority's Statement of Licensing Policy under Section 349,
  - ☐ in accordance with the Gambling Commission's Guidance to Local Authorities (GLA) [Guidance to licensing authorities - Gambling Commission](#)
- 6.2 Each case will be considered on its merits.
- 6.3 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are the subject of the application.
- 6.4 The overriding principle does not, however, apply to the consideration of an application for a casino licence if this Authority resolves not to issue casino premises licences.

## **7 Responsible Authorities**

- 7.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the licensing authority in relation to the applications. The Responsible Authorities are detailed in Appendix A and available via the Council's website at <http://eastdevon.gov.uk/licensing/gambling/>.
- 7.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- ☐ the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - ☐ the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 7.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Area Child Protection Committee and Local Safeguarding Children Board.

## **8 Interested Parties**

- 8.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person -
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,



- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- (a) Each case will be decided upon its merits. This licensing authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the Guidance at 8.9 to 8.17. The authority will also consider the Gambling Commission’s Guidance that “business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- (b) Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however, this licensing authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation may normally be sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing and Enforcement Committee or Sub Committee dealing with the licence application. If there are any doubts then please contact the Licensing Service: East Devon District Council, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton, EX14 1EJ or email:- [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

## **9 Exchange of Information**

- 9.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the General Data Protection Regulation Data Protection Act 2018 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. The Licensing Authority will have regard to the principles of Better Regulation.
- 9.2 Should any protocols be established regarding information exchange with other bodies then they will be made available.  
Licensing authorities are required to include in their Statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

## **10 Enforcement**

- 10.1 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and in line with the Regulators Code.
- 10.2 This licensing authority's principles endeavour to ensure its enforcement should be:
- ☐ Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - ☐ Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
  - ☐ Consistent: rules and standards must be joined up and implemented fairly;
  - ☐ Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - ☐ Targeted: regulation should be focused on the problem, and minimise side effects.
  - ☐ In line with the council's policy for regulatory and enforcement work with a graduated approach involving advice, guidance and support. Our approach is to engage with individuals and businesses to educate and to enable compliance.
- 10.3 In line with the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 10.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on:
- ☐ The licensing objectives
  - ☐ Relevant codes of practice
  - ☐ Guidance issued by the Gambling Commission, in particular at Part 36
  - ☐ The principles set out in this statement of licensing policy

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for operating and personal licences, and also the regulation of online gambling activity. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by this licensing authority but should be notified to the Gambling Commission.

This licensing authority will also keep itself informed of developments regarding the work of the Office for Product Safety and Standards in its consideration of the regulatory functions of local authorities, in particular the Primary Authority regime.

Bearing in mind the principle of transparency, this Council's [Regulatory Enforcement and Prosecution Policy - Principles of Enforcement - Policy - East Devon](#) available via the Council's website

## 11 Licensing Authority functions

### 11.1 Licensing Authorities are required under the Gambling Act 2005 to:

- ☐ Be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**
- ☐ Issue **Provisional Statements**
- ☐ Regulate **members' clubs and miners' welfare institutes** who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits
- ☐ Issue **Club Machine Permits to Commercial Clubs**
- ☐ Grant permits for the use of certain lower stake gaming machines at **unlicensed Family Entertainment Centres**
- ☐ Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- ☐ Issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- ☐ Register **small society lotteries** below prescribed thresholds
- ☐ Issue **Prize Gaming Permits**
- ☐ Receive and Endorse **Temporary Use Notices**
- ☐ Receive **Occasional Use Notices**
- ☐ Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- ☐ Maintain registers of the permits and licences that are issued under these functions

### 11.2 Local Licensing Authorities are not involved in licensing or authorising:

- Remote (online) Gambling that is dealt with by the Gambling Commission,
- Help and guidance in relation to [Safer Gambling - Gambling Commission](#)
- Spread betting is regulated by the Financial Services Authority; and
- The National Lottery (regulated by the Gambling Commission).

## 12 The Gambling Commission

### 12.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the Government about the matter in which gambling is carried out, the effects of gambling and the regulations of gambling generally.

### 12.2 The Commission has issued guidance under Section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

12.3 The Commission has also issued Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities.

12.4 The Gambling Commission can be contacted at:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Website: [Contact us - Gambling Commission](#)

### **13 Local Risk assessments**

13.1 The Gambling Commission's Social Responsibility Code requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this Statement of Principles

13.2 Licensees are required to undertake a local risk assessment when applying for a new or transfer of a premises licence. Their risk assessment must be also be updated:

- ☐ When applying for a variation of a premises licence
- ☐ To take account of significant changes in local circumstances, including those identified in this policy statement
- ☐ Where there are significant changes at a licensee's premises that may affect their mitigation of local risks, to include any changes to the interior layout of the premises, for example erection of privacy screens sited around gaming machines
- ☐ To require that local risk assessments will be kept available at a licensee's premises and being readily available for inspection by licensing authorities.

13.3 The Licensing Authority will require that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns.

13.4 This Authority will pay particular attention to applications for the new grant of, or variations to existing, premises licenses where those premises lie within areas with a concentration of schools, Anti Social Behaviour (ASB) hotspots and hostels or homes for vulnerable people.

13.5 Applicants will be expected to tailor their application, and have policies, procedures and control measures to mitigate any risks. They should have the appropriate numbers of trained staff, and propose licence conditions to cater for the local area in which they propose to run their business.

13.6 As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that *'... it does, for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.'*

- 13.7 This Licensing Authority will consider the licensing objective of protecting children and other vulnerable persons on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision. This Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues in relation to this.
- 13.8 This Licensing Authority will expect compliance by operators and licence holders with anti-money laundering conditions by having measures in place to identify and report suspicious financial activity.
- 13.9 The code requires the Licensing Authority to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this Licensing Authority would recommend that the following matters are considered by operators when making their risk assessment.
- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
  - Arrangement for localised exchange of information regarding self-exclusions and gaming trends,
  - Gaming trends that may mirror days for financial payments such as pay days or benefit payments,
  - Appropriate staffing to adapt to difference in times of day and seasonal periods,
  - Proximity to schools, commercial environment or other factors affecting footfall
  - Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
  - Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.
  - Potential for money laundering
- Matters relating to children and young persons, including;
- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues
  - Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
  - Areas that are prone to issues of youths participating in anti social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
  - Recorded incidents of attempted underage gambling
  - Areas where there is a presence of children and young persons on a seasonal basis (e.g. school holidays) such as holiday resorts, visitor attractions, etc.
  - How matters relating to safeguarding issues and child sexual exploitation have been considered and details of any training that has been provided to employees
- Matters relating to vulnerable adults, including;
- Information held by the licensee regarding self-exclusions
  - Gaming trends that may mirror days for financial payments such as pay days or benefit payments,
  - Arrangement for localised exchange of information regarding self-exclusions and gaming trends,
  - Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate.
  - What measures have been put in place in relation to supporting vulnerable adults and any training that has been provided to employees

Other issues that may be considered could include:

- Proximity of premises which may be frequented by large numbers of people including sports stadiums, leisure centres, places of worship.

This list is not exhaustive. Other factors not in this list that are identified must be taken into consideration.

- 13.10 This Licensing Authority will expect that Risk Assessment must be kept on the premises to which it relates and available for inspection by an authorised officer of the licensing authority or Gambling Commission

## **14 The Licensing Process**

- 14.1 A Licensing Committee (Licensing and Enforcement Committee), a Sub-Committee, or an officer acting under delegated authority may carry out the powers of the authority under the Gambling Act 2005.
- 14.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 14.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing and Enforcement Committee have received adequate training for their role under the Gambling Act 2005.
- 14.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.
- 14.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.

## Part B - Premises Licences: Consideration of Applications

### 1 General Principles

- 1.1 Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- ☐ in accordance with any relevant code of practice issued by the Gambling Commission
  - ☐ in accordance with any relevant guidance issued by the Gambling Commission
  - ☐ reasonably consistent with the licensing objectives and
  - ☐ in accordance with the authority's Statement of Principles.
- 1.3 It is appreciated that in line with the Gambling Commission's Guidance to licensing authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos later) and also that unmet demand is not a criterion for a licensing authority.
- 1.4 **Definition of "premises"** - In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 1.5 The Gambling Commission states in its Guidance that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
- 1.6 Any premises granted multiple licences prior to clarification of guidance issued by the Gambling Commission in 2009, may be reviewed from time to time having regard to the amended guidance including more recent amendments; the decision making process taken at that time; the separation control measures put in place; any material changes noted since the granting of the application and the relevance of all these factors having regard to the promotion of the licensing objectives. In particular to the protection of children and vulnerable persons from being harmed or exploited by gambling.
- 1.7 This licensing authority takes particular note of the Gambling Commission's Guidance

to licensing authorities which states that: Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- ☐ The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- ☐ Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- ☐ Customers should be able to participate in the activity named on the premises licence.
- ☐ Suitable and adequate separation by means of screening, walls, specific signage or similar
- ☐ There should not be any direct access to a premises (Adult Gaming Centre) from an area where a permit has been granted (for example an adjoining UFEC)

The Guidance also provides a list of factors which this licensing authority should consider and includes:

- ☐ Do the premises have a separate registration for business rates?
- ☐ Is the premises’ neighbouring premises owned by the same person or someone else?
- ☐ Can each of the premises be accessed from the street or a public passageway?
- ☐ Can the premises only be accessed from any other gambling premises?
- ☐ This licensing authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**The Gambling Commission’s relevant access provisions for each premises type are reproduced below from the Guidance,-7.23:**

**Casinos**

- ☐ The principal access entrance to the premises must be from a street (as defined at 7.21 of the Guidance)
- ☐ No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- ☐ No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

**Adult Gaming Centre**

- ☐ No customer must be able to access the premises directly from any other licensed gambling premises

**Betting Shops**

- ☐ Access must be from a street (as defined at paragraph 7.22 of the Guidance to Licensing Authorities) or from another premises with a betting premises licence
- ☐ No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.



### **Tracks**

- ☐ No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- ☐ No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Family Entertainment Centre**

- ☐ No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - betting premises, other than a track

Part 7 of the Guidance contains further guidance on this issue, which this licensing authority will also take into account in its decision-making.

## **1.8 Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that this licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this licensing authority will determine applications on their merits, applying a two stage consideration process:-

- ☐ First, whether the premises ought to be permitted to be used for gambling
- ☐ Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

1.9 Applicants should note that this licensing authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

1.10 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 – 7.65 of the Guidance.

1.11 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. In line with the Gambling Commission’s Guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. –It should be noted that any such policy does not preclude any application being made and each application will be

decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

**1.12 Planning:**

The Guidance states:

Paragraph 7.58 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This licensing authority will not take into account irrelevant matters in line with the above guidance. In addition this licensing authority notes the following excerpt from the Guidance:

Paragraph 7.65 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

**1.13 Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will, though, listen to, and consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this licensing authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

**1.14 Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to licensing authorities and further comment on the objectives is made below.

**1.15 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime including prevention of money laundering. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it), so as to make that distinction.

1.16 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however more of a role with regarding to tracks which is explained in more detail in the tracks section later.

1.17 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance to licensing authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc. The need to ensure safeguarding of children and other vulnerable adults is an expectation of the licensing authority. The Licence Conditions and Codes of Practice (LCCP) prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are present. In particular operators are expected to ensure:

- all staff are trained,
- that all customers are supervised when on gambling premises,
- procedures for identifying customers who are at risk of gambling related harm are in place.

The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility. These should cover all aspects including in particular staff training records and self-exclusion records.

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

Appendix D provides information for licence holders and their employees regarding safeguarding and the safety of children and vulnerable persons, particularly to child sexual exploitation and trafficking.

1.18 This licensing authority is also aware of the Gambling Commission's Codes of Practice regarding this licensing objective, in relation to specific premises.

1.19 It is noted that the Gambling Commission is not seeking to offer a definition of the term "vulnerable persons" but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."

The Local Government Association report titled "Tackling Gambling Related Harm – A whole council approach" references research supporting the suggestion that certain groups of people are more vulnerable. This is set out in page 7 of that report and is acknowledged by this licensing authority.

This licensing authority will consider the licensing objective on a case-by-case basis.

- 1.20 **Conditions** - Any conditions attached to licences will be proportionate and will be:
- ☐ relevant to the need to make the proposed building suitable as a gambling facility;
  - ☐ directly related to the premises and the type of licence applied for;
  - ☐ fairly and reasonably related to the scale and type of premises;
  - ☐ reasonable in all other respects; and
  - ☐ enforceable
- 1.21 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions on the way in which the licensing objectives can be met effectively when making their application.
- 1.22 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 1.23 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- ☐ all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - ☐ only adults are admitted to the area where these machines are located;
  - ☐ access to the area where the machines are located is supervised;
  - ☐ the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
  - ☐ at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 1.24 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.25 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:
- ☐ any condition on the premises licence which makes it impossible to comply with an operating licence condition;
  - ☐ conditions relating to gaming machine categories, numbers, or method of operation;
  - ☐ conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
  - ☐ conditions in relation to stakes, fees, winnings or prizes.
- 1.26 **Door Supervisors** - The Gambling Commission advises in its Guidance that if a licensing authority is concerned that a premises may attract disorder or be subject to

attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (in line with the Guidance, Part 33).

- 1.27 In deciding whether door staff are needed and the level of training required the licensing authority will take into account the particular circumstances of the premises and the Gambling Commissions guidance.

## **2 Adult Gaming Centres**

- 2.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover the following issues:

- ☐ CCTV
- ☐ Door supervisors
- ☐ Location of entry
- ☐ Notices/signage
- ☐ Physical separation of areas (an expectation for barriers to be tangible and evident)
- ☐ Proof of age schemes
- ☐ Provision information leaflets helpline numbers for organisations such as GamCare.
- ☐ Self-exclusion schemes
- ☐ Specific opening hours
- ☐ Supervision of entrances/machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 2.2 The question of sub-division of such premises has been the subject of further Gambling Commission Guidance. This Licensing Authority will have regard to any relevant additional guidance that may be issued by the Gambling Commission in respect to such applications any decision-making.

- 2.3 This Authority accepts that there must be no direct entry from one adult gaming centre into another and will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications.

## **3 (Licensed) Family Entertainment Centres**

- 3.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

- 3.2 This licensing authority may consider measures to meet the licensing objectives including those relating to:

- ☐ CCTV
- ☐ Door supervisors
- ☐ Location of entry
- ☐ Measures/training for staff on how to deal with suspected truant school children on the premises
- ☐ Notice/signage
- ☐ Physical separation of areas
- ☐ Proof of age schemes
- ☐ Provision of information leaflets/helpline numbers for organisations such as GamCare.
- ☐ Self-exclusion schemes
- ☐ Specific opening hours
- ☐ Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 3.3 This licensing authority will, in line with the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences

covering the way in which the area containing the category C machines should be delineated.

## **4 Casinos**

East Devon District Council passed a 'no casino' resolution in this district under Section 166 of the Gambling Act 2005. The 'no casino' effect came into effect on 31<sup>st</sup> January 2022. The 'no casino' decision was made by the Full Council on 8 December 2021. The Council will generally review this resolution at least every three years, but in this instance this review will be put on-hold pending the forthcoming updated guidance from the Gambling Commission and subsequent full update of this Policy.

This means that East Devon District Council will presently not consider any applications for a premises licence for a casino. We will return any applications, should it be received, with a notice that a 'no casino' resolution is in place. The Council is currently not enabled by the Secretary of State (in accordance with regulations made under Section 175 of the Act) to grant a premises licence for a casino.

## **5 Bingo premises**

### **5.1 This licensing authority notes that the Gambling Commission's Guidance states:**

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas. In consideration before issuing additional bingo premises licences, the licensing authority will need to consider whether bingo can be played at each of those new premises.

This licensing authority also notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible for all of the gaming machines to which each of the licence brings an entitlement to be grouped together within one of the licensed premises. In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' (7.5-7.11) and how it relates to the primary gambling activity.

Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## **6 Betting premises**

### **Betting machines**

This Licensing Authority will consider whether it is appropriate to restrict the number of betting machines, their nature and the circumstances in which they are made available by way of licence condition for betting or casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in a particular premises, this Licensing Authority, amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.”

The Licensing Authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the sighting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons. This Licensing Authority reserve the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so. Where a substantial or significant variation to a premises occurs, to include sighting or placement of screens and/or booths, it will be the expectation of the licensing authority for an application to vary the licence along with a revised plan of the premises to be submitted.

Factors to be taken into consideration will include the following:

- ☐ CCTV
- ☐ Re-location of the machines
- ☐ Door buzzers
- ☐ Remote cut off switches
- ☐ Training provision
- ☐ Any other factor considered relevant

## **7 Tracks**

- 7.1 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (that is the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3 This licensing authority may consider measures to meet the licensing objectives including those relating to:
- ☐ CCTV
  - ☐ Location of entry



- ☐ Notices/signage
- ☐ Physical separation of areas
- ☐ Proof of age schemes
- ☐ Provision of information leaflets/helpline numbers for organisations such as GamCare
- ☐ Self-exclusion schemes
- ☐ Specific opening hours
- ☐ Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

#### 7.4 **Gaming Machines**

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

Applicants are advised to consult the Gambling Commission's Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This Licensing Authority will take note of this guidance. This Licensing Authority will also, in line with the Gambling Commission's Guidance, consider the location of gaming machines at tracks.

#### 7.5 **Betting Machines**

This licensing authority will, in line with part 6 of the Gambling Commission Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

On tracks where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines, this Licensing Authority will generally consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

#### 7.6 **Applications and plans**

Section 151 of the Gambling Act 2005 requires applicants to submit plans of the premises with their application, in order to ensure that this licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for this licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or

racers. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This licensing authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this licensing authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.46).

## **8 Travelling Fairs**

- 8.1 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs it will be this Licensing Authority’s responsibility to decide whether the statutory requirement is met, that the facilities for gambling amounts to no more than an ancillary amusement at the fair.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It is been noted that the 27 day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

## **9 Provisional Statements**

- 9.1 Developers may wish to apply to this licensing authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Act provides for a person to make an application to this licensing authority for a provisional statement in respect of premises that he or she:
  - ☐ expects to be constructed;
  - ☐ expects to be altered; or
  - ☐ expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. This licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- ☐ they concern matters which could not have been addressed at the provisional statement stage, or
  - ☐ they reflect a change in the applicant's circumstances.

In addition, this licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- ☐ which could not have been raised by objectors at the provisional statement stage;
- ☐ which in this licensing authority's opinion reflect a change in the operator's circumstances; or
- ☐ where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 10 Reviews

- 10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below.
- ☐ in accordance with any relevant code of practice issued by the Gambling Commission;
  - ☐ in accordance with any relevant guidance issued by the Gambling Commission;
  - ☐ reasonably consistent with the licensing objectives;
  - ☐ in accordance with the authority's Gambling Licensing Policy
- 10.2 The Licensing Authority will also consider whether the request is frivolous, vexatious, whether the request will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether the request is substantially the same as previous representations or requests for review;
- 10.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises on the basis of any reason which it thinks is appropriate.
- 10.4 Once a valid application for a review has been received by this licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by this licensing authority, who will publish notice of the application within 7 days of receipt.
- 10.5 This licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether this licensing authority should take any action in relation to the licence. If action is justified, the options open to this licensing authority are:-
- (a) add, remove or amend a licence condition imposed by this licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, this licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, this licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 10.9 Once the review has been completed, this licensing authority must, as soon as possible, notify its decision to:
- (i) the licence holder
  - (ii) the applicant for review (if any)
  - (iii) the Commission
  - (iv) any person who made representations
  - (v) the chief officer of police or chief constable; and
  - (vi) Her Majesty's Commissioners for Revenue and Customs

## PART C

### Permits / Temporary & Occasional Use Notice

#### 1 Unlicensed Family Entertainment Centre - Gaming Machine Permits Statement of Principles – (Schedule 10 Paragraph 7)

- 1.1 Where an establishment does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare a **statement of principles** that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year Statement of Principles (Licensing Policy), licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues." (Guidance Paragraph 24.8)
- 1.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application . . ." This Licensing Authority will require the applicant to demonstrate:
- ☐ a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
  - ☐ that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - ☐ that staff are trained to have a full understanding of the maximum stakes and prizes. (Guidance Paragraph 24.9)
  - ☐ an expectation for gaming machines to be properly marked and identified according to category
- 1.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.

#### 1.5 Statement of Principles

- 1.5.1 This licensing authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the council to better determine the suitability of the applicant and the premises for a permit.
- 1.5.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:
- ☐ they are a fit and proper person to hold the permit
  - ☐ they have considered and are proposing suitable measures to promote the licensing objectives, and
  - ☐ they have a legal right to occupy the premises to which the permit is sought.

- 1.5.3 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

## **1.6 Unlicensed family entertainment centres**

- 1.6.1 The term ‘unlicensed family entertainment centre’ is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny-pushers. The premises is ‘unlicensed’ in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a ‘licensed family entertainment centre, which does require a premises licence because it contains both category C and D gaming machines.
- 1.6.2 Unlicensed family entertainment centres (uFECs) will be most commonly located at seaside resorts, in airports and at motorway style service centres, and will cater for families, including unaccompanied children and young persons.
- 1.6.3 The council will only grant an uFEC gaming machine permit where it is satisfied that the premises will be operated as a bonafide unlicensed family entertainment centre.
- 1.6.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

## **1.7 Supporting documents**

- 1.7.1 The council will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- ☐ proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- ☐ proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document the result of a criminal records disclosure checking (the disclosure must have been issued within the previous 3 months). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Disclosures can be obtained from the Disclosure and Barring Service (DBS). For further details visit their website: <https://www.gov.uk/request-copy-criminal-record>
  - Where an applicant provides evidence that they have an Operating Licence and as a result have undergone rigorous checks by the Gambling Commission, then a criminal record disclosure check will not be required.
  - Where an applicant is a company or organisation and does not hold an Operating Licence, then the proposed Manager responsible for the day to day running of the premises will be required to produce a criminal record disclosure check dated within one calendar month of the date of the application being submitted to the Licensing Authority.
  - When a permit holder appoints a new manager responsible for the day to day running of the premises, that person will be required to produce a criminal record disclosure check dated within one calendar month of the appointment date.
- ☐ In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine

supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission

- ❑ A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (ii) where any category D gaming machines are positioned and the particular type of machines to be provided (for example slot machines, penny-falls, cranes)
  - (iii) the positioning and types of any other amusement machines on the premises
  - (iv) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - (v) the location of any ATM/cash machines or change machines
  - (vi) the location of any fixed or temporary structures such as columns or pillars
  - (vii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - (viii) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100. In any circumstance where the premises is bordering or separated to an Adult Gaming Centre the licensing authority will expect submission of a Local Risk Assessment for both premises.

## **1.8 Protection of Children**

1.8.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm and to meet requirements for safeguarding. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- ❑ maintain contact details for any local schools and or the education authority so that any truant children can be reported
- ❑ employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- ❑ employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- ❑ maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- ❑ display posters displaying the 'Child Line' phone number in discreet locations on the premises
- ❑ maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends that require attention by the management of the premises.)
- ❑ ensure all young children are accompanied by a responsible adult.
- ❑ Maintain policies to deal with any young children who enter the premises unaccompanied and for staff to report suspicious activities or incidents
- ❑ The provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.

**NB:** Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application. The Licensing Authority encourages applicants for UFEC Permits to consider adopting BACTA's voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility, and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

## **1.9 Protection of Vulnerable Persons Issues**

- 1.9.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- ☐ display Gamcare helpline stickers on all gaming machines
- ☐ display Gamcare posters in prominent locations on the premises
- ☐ training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- ☐ consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

**NB:** Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## **1.10 Other miscellaneous issues**

- 1.10.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- ☐ maintain an effective CCTV system to monitor the interior and exterior of the premises
- ☐ keep the exterior of the premises clean and tidy
- ☐ ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- ☐ consider the design and layout of the outside of the premises to deter the congregation of children and youths.

**NB:** Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.



## **2 Alcohol Licensed Premises Gaming Machine Permits – (Schedule 13 Paragraph 4(1))**

### **2.1 Automatic Entitlement for two machines**

There is provision in the Act for a premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any premises if:

- ☐ provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- ☐ gaming has taken place on the premises and that breaches a condition of section 282 of the Gambling Act has occurred (for example that written notice has not been provided to the licensing authority, that a fee has not been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has not been complied with);
- ☐ the premises are mainly used for gaming; or
- ☐ an offence under the Gambling Act has been committed on the premises

The Licensing Authority will use its discretion to remove permits where appropriate taking into account individual circumstances considering a Code of Practice.

The premises must comply with the Code of Practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission.

All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.

### **2.2 Permit - three or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “other such matters as the Authority think relevant.” This licensing authority considers that “such matters” will be decided on a case-by-case basis. However generally there will be regard to the size of the premises in comparison to the number of machines sought and to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

2.3 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

2.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

- 2.5 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

Applicants should be aware that only those premises which have a 'bar' (server) at which alcohol is sold for consumption on the premises will be eligible for gambling machines in the bar area of the premises. This means that premises such as restaurants which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food cannot automatically qualify for two machines.

### **3 Prize Gaming Permits – Statement of Principles on Permits - (Schedule 14 Para 8 (3))**

- 3.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

#### **3.2 Statement of Principles**

- 3.2.1 This licensing authority has adopted a Statement of Principles in accordance with paragraph 8 of Schedule 14 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a prize gaming permit. This will allow the council to better determine the suitability of the applicant and the premises for a permit.

- 3.2.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- ☐ they are a fit and proper person to hold the permit
- ☐ they have considered and are proposing suitable measures to promote
- ☐ the licensing objectives, and
- ☐ they have a legal right to occupy the premises to which the permit is sought.

- 3.2.3 This licensing authority will expect the applicant to set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- ☐ that they understand the limits to stakes and prizes that are set out in Regulations;
- ☐ and that the gaming offered is within the law.
- ☐ clear policies that outline steps to be taken to protection children from harm.

- 3.2.4 In making its decision on an application for a prize gaming permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

- 3.2.5 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

#### **3.3 Prize gaming permits**

- 3.3.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The operator will determine the prizes before play commences. Prize gaming

can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed.

3.3.2 A prize gaming permit is a permit issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.

3.3.3 Applicants should be aware of the conditions in the Gambling Act 2005 with which prize gaming permit holders must comply. The conditions in the Act are:

- ☐ the limits on participation fees, as set out in regulations, must be complied with;
- ☐ all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- ☐ the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- ☐ participation in the gaming must not entitle the player to take part in any other gambling.

3.3.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

## **3.4 Supporting documents**

3.4.1 The council will require the following supporting documents to be served with all prize gaming permit applications:

- ☐ proof of age (a certified copy or sight of an original birth certificate, photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- ☐ proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document
- ☐ the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous 3 months). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Disclosures can be obtained from the Disclosure and Barring Service (DBS). For further details visit their website: <https://www.gov.uk/request-copy-criminal-record>
- ☐ A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (iii) The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
  - (iv) the positioning and types of any other amusement machines on the premises
  - (v) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - (vi) the location of any ATM/cash machines or change machines
  - (vii) the location of any fixed or temporary structures such as columns or pillars
  - (viii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - (ix) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

### **3.5 Safeguarding and Protection of Children**

3.5.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- ☐ maintain contact details for any local schools and or the education authority so that any truant children can be reported
- ☐ employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- ☐ employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- ☐ maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- ☐ display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- ☐ maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ☐ ensure all young children are accompanied by a responsible adult.
- ☐ Maintain policies to deal with any young children who enter the premises unaccompanied
- ☐ The provision of satisfactory basic disclosure checks (criminal records checks) for all staff that will be working closely with children.

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

3.5.2 East Devon District Council has a legal duty to work together with other statutory bodies and voluntary agencies to safeguard and promote the welfare of children.

### **3.6 Protection of Vulnerable Persons**

3.6.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- ☐ display Gamcare helpline stickers on all gaming machines
- ☐ display Gamcare posters in prominent locations on the premises
- ☐ training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (for example how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- ☐ consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

### **3.7 Other miscellaneous issues**

3.7.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- ☐ maintain an effective CCTV system to monitor the interior and exterior of the premises
- ☐ keep the exterior of the premises clean and tidy
- ☐ ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- ☐ consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

## 4 Club Gaming and Club Gaming Machine Permits

- 4.1 Members' clubs may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The **Club Gaming Permit** will enable the premises to provide gaming machines (3 machines of categories B3A or B4, C or D), equal chance gaming and games of chance as prescribed in regulations, namely pontoon and chemin de fer. This is in addition to the exempt gaming authorised under section 269 of the Act. Alternatively, a member's club (but not commercial clubs) can apply for a **Club Gaming Machine Permit** which will only enable the premises to provide gaming machines (3 machines of categories B3A or B4, C or D).
- 4.2 Commercial clubs are not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act) which means that they should only apply for a Club Gaming Machine Permit. However, they are not able to site category B3A gaming machines offering lottery games in their club.
- 4.3 Clubs which hold a club premises certificate under section 72 of the Licensing Act 2003 are exempt from the stricter vetting process that apply for the normal application for Club Gaming and Club Machine Permits. Under this fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the grounds upon which an authority can refuse a permit are reduced. This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12. Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.
- 4.4 With the exception of clubs that hold club premises certificates under section 72 of the Licensing Act 2003 the Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit or a club gaming machine permit. In order to do this, it will require proof of additional information from the operator, for example:
- ☐ Is there a list of committee members and evidence of their election by club members?
  - ☐ Are there minutes of previous meetings (where appropriate)?
  - ☐ Is the primary activity of the club something other than gaming?
  - ☐ Are the club's profits retained solely for the benefit of the club's members?
  - ☐ Are there 25 or more members?
  - ☐ Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
  - ☐ Do members participate in the activities of the club via the internet?
  - ☐ Do guest arrangements link each guest to a member?
  - ☐ Is the 48 hour rule being applied for membership and being granted admission being adhered to (the 48 hour rule not being applicable for commercial clubs)?
  - ☐ Are there annual club accounts available for more than one year?
  - ☐ How is the club advertised and listed in directories and on the internet?
  - ☐ Are children permitted in the club?
  - ☐ Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club at an annual or special general meeting?
- 4.5 When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:
- ☐ Who makes commercial decisions on behalf of the club?
  - ☐ Are the aims of the club set out in the constitution?

- ☐ Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- ☐ Is the club permanently established? (Clubs cannot be temporary).
- ☐ Are there suitable rules as to the election and admission to the club of new members?
- ☐ What is the usual duration of membership?
- ☐ Can people join with a temporary membership? What is the usual duration of membership?
- ☐ Are there long term club membership benefits?
- ☐ Is there a provision for annual general meetings?
- ☐ Is there a provision for the election of officers?

4.6 Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority will consider such factors as:

- ☐ How many nights a week gaming is provided;
- ☐ How the gaming is advertised;
- ☐ What stakes and prizes are offered;
- ☐ Whether there is evidence of leagues with weekly, monthly or annual winners;
- ☐ Whether there is evidence of members who do not participate in gaming;
- ☐ Whether there are teaching sessions to promote gaming such as poker;
- ☐ Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- ☐ Whether there is sponsorship by gaming organisations;
- ☐ Whether participation fees are within limits.

## 4.7 Supporting documents

4.7.1 In order for the Licensing Authority to satisfy itself that the club meets the requirements of the Gambling Act 2005 as described in paragraphs 4.4 to 4.6 to hold a club gaming permit or a club gaming machine permit the applicant/club will be expected to supply documentation that includes evidence that the club has elected officers, minutes of meetings and particularly those of annual general meetings. The documentation will include where appropriate:

- ☐ A copy of the club's constitution and a copy of the general/annual meeting that agreed the constitution.
- ☐ In the case of a club formed within the past two years a copy of the minutes of the inauguration meeting and minutes of any subsequent general or annual general meetings.
- ☐ Where the club has existed for more than two years a copy of the minutes of the last two annual general meetings and general meetings held during the previous two years.
- ☐ A full copy of the club's list of members including their addresses.
- ☐ A list of committee members and their positions within the club.
- ☐ A copy of the club's accounts for the last two years. Where a club is unable to provide this information because it has only recently been formed the Licensing Authority will expect an appropriate set of accounts for the time the club has been in operation.

4.7.2 The Licensing Authority will require a plan of the premises for which the permit is sought to be served with all club gaming and club gaming machine permit applications. The plan should show the following items:

- (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways

- (ii) where any gaming machines are positioned and the particular type of machines to be provided
- (iii) the positioning and types of any other amusement machines on the premises
- (iv) the location of any ATM/cash machines or change machines
- (v) the location of any fixed or temporary structures such as columns, pillars or serveries
- (vi) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- (vii) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

- 4.8 Many applications are dealt with by delegated authority to officers however should it be necessary for an application for a permit to be determined by a Sub Committee of the Licensing and Enforcement Committee members will expect to be able to speak to and or question the club on aspects of its operation. To that end it will be expected that an officer of the club would attend and be prepared to answer questions at any meeting arranged to determine the application.
- 4.9 Licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 4.10 In the case of the 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10 and paragraph 25.41 of the GC Guidance) there is no opportunity for objections to be made by the Gambling Commission or the police, and the ground upon which an authority can refuse a permit are reduced to the following:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 4.11 The Licensing Authority will expect the holders of club gaming or club gaming machine permits when applying to vary them to comply with all the relevant requirements set out in this section as if the application was for a new permit.
- 4.12 There are statutory conditions on club gaming permits that no child uses a category B3A or B4 or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.



## **5 Temporary Use Notices**

- 5.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 This licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Act (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards temporary use notices. "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the Gambling Commissions Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 5.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.6 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **6 Occasional Use Notices**

- 6.1 Occasional use notices enable betting on a track for up to eight days a year without a premises licence
- 6.2 The licensing authority has very little discretion regarding these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to serve the notice.
- 6.3 Further advice is available from the Gambling Commission's website at [Occasional Use Notices \(OUNs\) \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk/occasional-use-notices)

## **7 Small Society Lotteries**

- 7.1 Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories:
  - ☐ licensed lotteries (requiring an operating licence from the Gambling Commission);
  - and

- ☐ exempt lotteries (including small society lotteries registered by the Licensing Authority)
- 7.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:
- ☐ small society lotteries;
  - ☐ incidental non-commercial lotteries;
  - ☐ private lotteries;
  - ☐ private society lotteries;
  - ☐ work lotteries;
  - ☐ residents' lotteries;
  - ☐ customer lotteries;
- 7.3 East Devon District Council will register and administer small society lotteries as defined under the Act. Advice regarding small society lotteries and the definitions of the above exempt lotteries is available from the Gambling Commission website: [Society lotteries \(gamblingcommission.gov.uk\)](http://Society%20lotteries%20(gamblingcommission.gov.uk))
- 7.4 This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:
- ☐ submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held);
  - ☐ submission of incomplete or incorrect returns;
  - ☐ breaches of the limits for small society lotteries.

## **8 Vessels**

- 8.1 The licensing authority when considering applications for premises licences in respect of vessels normally berthed in East Devon will give particular weight to the views of the Maritime and Coastguard Agency in respect of promoting the licensing objectives. Where in the opinion of the licensing authority any of the three objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

### Relevant Authorities' Contact Details

#### Responsible Authority Contacts -

The list of Responsible Authorities and their contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or existing Responsible Authorities change their address (last updated 09.2015).

An up to date list of Responsible Authorities relating to East Devon with their contact details can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Office by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

East Devon Licensing Authority  
The Licensing Manager  
East Devon District Council  
Council Offices  
Blackdown House, Border Road  
Heathpark Industrial Estate  
Honiton  
EX14 1EJ

The Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Devon & Cornwall Police  
Licensing Department  
Devon & Cornwall Constabulary  
Launceston Police Station  
Moorland Road  
Launceston  
PL15 7HY

Devon and Somerset Fire & Rescue Service  
East Devon Group Business Safety  
Middlemoor Fire Station  
Sidmouth Road  
EXETER  
EX2 7AP

Devon Safeguarding Children Partnership CP Checks  
MASH  
PO BOX 723  
Exeter  
EX1 9QS

Environmental Health (Environmental Health and Parking Services Manager)  
(Nuisance, Public Health & Health & Safety)  
Environmental Health Service

East Devon District Council  
Council Offices  
Blackdown House  
Border Road  
Heathpark Industrial Estate  
Honiton  
EX14 1EJ

Head of Planning  
Planning & Countryside Service  
East Devon District Council  
Council Offices  
Blackdown House  
Border Road  
Heathpark Industrial Estate  
Honiton  
EX14 1EJ

HM Customs and Excise  
HM Revenue and Customs  
Excise Processing Teams  
BX9 1GL

Additional Responsible Authority Contacts for vessels –  
Maritime and Coastguard Agency  
(For attention of Mr Tony Heslop)  
Plymouth Marine Office  
Western Region  
New Fish Market,  
Fish Quay  
PLYMOUTH  
PL4 0LH

# Appendix B

## Glossary of Terms

**DCMS** - Department for Digital, Culture, Media, and Sport

**An Interested Party – is a person, in the opinion of the Licensing Authority who:**

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b).

**Responsible Authority –**

- (i) The Licensing Authority
- (ii) The Gambling Commissioner
- (iii) Devon & Cornwall Police
- (iv) The Devon and Somerset Fire & Rescue Service
- (v) The local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are wholly or partly situated
- (vi) The local authority by which statutory functions are exercisable in any area in which the premises are wholly or partly situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) A body which is designated in writing for the purpose of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm:
- (vii) And any other person prescribed by regulations by the Secretary of State.

The following comprises a glossary of terminology used within the statement of licensing principles. Terms defined within the statement itself, or at length in the Gambling Act 2005, have not been included.

**Adult Gaming Centre**

A premises where the provision of Category B, C and D gaming machine facilities for adult customers is authorised by the Licensing Authority.

**(Alcohol) Licensed Premises Gaming Machine Permit**

Permit issued by Licensing Authority allowing more than two Category C or D gaming machines to be used on Alcohol-licensed premises

**Betting Machine**

A machine that accepts bets on live events, such as horse racing, as a substitute for placing bets over the counter.

**Betting Premises**

Premises where the provision of betting facilities is authorised by the Licensing Authority.

**Bingo Premises**

Premises authorised by the Licensing Authority where bingo, either cash or prize bingo, may take place.

**Casino Premises**

Premises authorised by the Licensing Authority where persons are given an opportunity to participate in casino games i.e. games of chance, which are not equal chance gaming.

**Children**

Means individuals who are less than 16 years old. Most gambling is illegal for anyone under 18.

**Club Gaming Permit**

Permit issued by the Licensing Authority that authorises the provision of games of chance and gaming machines on premises from which a members club operates.

**Club Machine Permit**

Permit issued by the Licensing Authority which authorises a club to have up to three gaming machines on the premises.

**Family Entertainment Centre**

Premises where the provision of Category C and D gaming machines is authorised by the Licensing Authority.

**Gambling Commission**

The body which regulate all commercial gambling in Great Britain.

**Gaming Machine**

A machine that is designed or adapted for use by people to gamble. Such machines are classified in 4 categories, A, B, C and D. Category D has the lowest level of charge and prizes, whilst the other categories increase in value up to Category A, which has no limits to charges or prizes.

**Gaming Machine Permit**

Permit issued by the Licensing Authority regulating the operation of gambling machines.

**Licensing and Enforcement Committee**

The committee that has been established by the Licensing Authority to discharge its licensing functions under the Gambling Act 2005.

**Licensing Manager**

The Officer appointed by the Licensing Authority to carry out functions and duties delegated by the Licensing Authority.

**Operator**

The holder of a licence issued by the Gambling Commission or a Licensing Authority, being an individual or company which provides facilities for certain types of gambling.

**Personal Licence**

A licence issued to an individual by the Gambling Commission, authorising the holder to perform a specified management office or specified operational function in connection with the provision of facilities for gambling.

**Premises Licence**

A licence issued by the Licensing Authority that authorises the provision of gambling facilities on specified premises.

**Prize Gaming**

Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

**Prize Gaming Permit**

A permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

**Provisional Statement**

An authorisation issued by the Licensing Authority where the applicant expects premises to be constructed or altered in accordance with plans submitted, or expects to acquire a right to occupy the premises.

**Regulators Code**

Code of practice issued by the Government to ensure that regulatory best practice is adopted and carried out by regulators.

**Relevant Representation**

A representation received from a responsible authority or an interested party that relates to the licensing objectives, or that raises issues under this statement, the Gambling Commission's Guidance or codes of practice.

**Remote Gambling**

Defined by the Gambling Act 2005 as gambling in which persons participate by the use of remote communication including the internet, telephone, television, radio or any other kind of electronic or other technology for facilitating communication.

**Remote Operating Licence**

Issued by the Gambling Commission to individuals or companies running a gambling service through remote communication (including online gambling) and any part of your remote equipment is based in Great Britain or where remote equipment is based outside Great Britain and you advertise remote gambling to consumers in Britain through a British-facing business.

**Review**

The process by which a Licensing Authority may, either of its own volition or on the request of a third party, determine whether any action should be taken in relation to the operation of a premises licence.

**Temporary Use Notice**

A notice which permits the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.

**Track**

Sites (such as a horse racecourse or dog track) where races or other sporting events take place.

**Young Person**

Means individuals who are aged less than 18 years old and 16 years and over

## APPENDIX C

### GAMING MACHINES – CATEGORIES AND ENTITLEMENT

The summary of gaming machine categories and entitlements can be found on the Gambling Commission's website online at [Appendix B: Summary of gaming machine categories and entitlements - Gambling Commission](#)

Category of machine	Maximum stake (from April 2019)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£2	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

\* With option of max £20,000 linked progressive jackpot on premises basis only



# APPENDIX D

## **SAFEGUARDING CHILDREN AND VULNERABLE ADULTS**

East Devon District Council along with other districts across Devon have produced and adopted a joint safeguarding policy designed to protect children and vulnerable adults. Safeguarding is a statutory responsibility placed on this and all councils. This council is committed to tackle child sexual exploitation and trafficking by working together with key partners.

It is important to ensure that functions are discharged with regard to safeguarding and promoting the welfare of children. The joint safeguarding policy states in relation to councils that it is our responsibility under the Children Act 2004, which places a duty on public bodies, including district councils to ensure that our functions are discharged with regard to the need to safeguard and promote the welfare of children.

Devon District Councils believe that all children, young people and adults have the right to be safe, happy and healthy and deserve protection from abuse. The councils are committed to safeguarding from harm all children, young people and adults with care and support needs using any council services and involved in any of their activities, and to treat them with respect during their dealings with the councils, our partners and contractors.

### **How gambling premises licence, permit holders and their employees can support Safeguarding**

Gambling establishment licence and permit holders and their employees are in a good position to help identify those subject of or at risk of sexual exploitation because, through the operation of certain gambling activities, licence and permit holders and their employees regularly come into contact with children, young and vulnerable people. This means that licence and permit holders and their employees are in an ideal position to help protect young and vulnerable people.

Operators, licence and permit holders and their employees should consider and have regard safeguarding measures particularly when encountering young and vulnerable people in gambling premises by establishing:

- ☐ Do any customers appear to be under 18 years old?
- ☐ Are they with a much older person and appear to be in a relationship?
- ☐ Do they appear to be under the influence of alcohol or drugs?
- ☐ Are children/young people being brought regularly to your premises by older people? If so, ask yourself why?

The provision of staff training, awareness or development opportunities should be a consideration to improve their knowledge of skills in this area.

Operators, licence and permit holders and their employees with any reason to suspect a person is being abused or at risk of abuse now has a responsibility to report those concerns.

Information may be shared in confidence with Devon and Cornwall Police (by telephone: 101 or email: [101@dc.police.uk](mailto:101@dc.police.uk)) and Devon Safeguarding Children Partnership (by telephone: 0345 155 1071 or emergency out of hours 0345 600 0388).